

How can a Madhab have multiple opinions on one issue? [Transcript]

Answered by the noble Shaykh Ahmad Mūsā Jibrīl (حفظه الله)

That's actually a very important question and we studied issues (masā'il) that had different opinions from their own madhab, from one madhab. How could there be contradiction and conflicting opinions by one madhab or one Imām in the same fiqhī issue, I think that's what the brother or sister is asking.

We went over many issues, we say at times Mālikī's opinion is on so and so, then they have a second opinion which is completely different than the first one. Likewise, the Shāfi'yyah and Hanābilah and Hanafiyyah.

How does the Imām or the madhab have two opposite opinions on one issue? That's a very good question from a student of 'ilm.

A lot of times, an 'Ālim gives an opinion based on what he has of proof. Then he sees proof later on, that changes his view. The people who heard the first opinion may not know, so that gives that matter two opinions by that Imām. Like ash-Shāfi'ī which I touched upon in the Tawhīd series I believe, that he had al-Madhab al-Qadīm wal Madhab al-Jadīd. He lived in Hijāz, then in 'Irāq, then in Egypt, before Egypt, he had his opinions, it's referred to as al-Qadīm. After Egypt, he developed new opinions, which is called or referred to as al-Jadīd. It could be more proof that he was exposed to, or he learned about proof that he used that was for example maybe abrogated.

Ibn Taymiyyah (رحمه الله) in his book, Raf' al-Malam 'an al-A'immat al-A'lām, he mentioned reasons for the dispute among various 'Ulamā'. Some of those reasons apply to why a 'Ālim changes their old opinions as well. Having multiple opinions on the same issue, may generally discredit someone, it may discredit an 'Ālim. A layman, if a layman goes around and says this is halāl here, then goes to another country or a few years later in the same country, he says, this is harām, there's a credibility issue here. Actually that's what happened, some of the Hanafiyyah criticised ash-Shāfi'yyah for the old and new madhab, for changing opinions, even though, it was only approximately 20 issues that ash-Shāfi'ī changed in. Ibn Salāh said it was 18 and Nawawī said it was 19.

There's even mutūn that point out to those issues so that once can memorise and recognise them. Some said slightly more than that, some said a little bit less than that. It's such a matter of concern that 'Ulamā' wrote books justifying why ash-Shāfi'ī (رحمه الله) had multiple opinions.

So the question alhamdulillah shows the level and alertness of the students Allāh (سبحانه وتعالى) blessed us with as they seen that as a matter of concern and I was expecting something like that but alhamdulillah we finally got such a question.

It was such an issue that 'Ulamā' wrote books justifying and explaining what ash-Shāfi'ī had, why ash-Shāfi'ī had two opinions on some matters.

Farā'id al-Fawā'id fī Ikhtilāf al-Qawlān lī Muḥtāhid Wāhid wa Shams ad-Dīn Muḥammad ash-Shāfi'ī and then Nusratul Qawlāy lī Imām ash-Shāfi'ī Iiban al-Qās.

Books that were written to justify why Imām ash-Shāfi'ī (رحمه الله) had two opinions on some matters. Even Abū Yūsuf al-Muḥammad and Zufār, the biggest students of Abū Hanīfah, they differed with their Imām. Some say they even differed with the Usūl, the principles of the madhab. When that level, the first level, of students of Abū Hanīfah, dispute what their Shaykh said in some matters, it's attributed to the madhab at times and you will say al-Hanafīyyah had this opinion here and they have this opinion here, two opinions on one matter.

They say Muḥammad Ibn al-Hasan, one of the top students of Abū Hanīfah, excelled to become a full Muḥtāhid and they dispute whether, they question whether he continued to adopt his own Shuyūkh's principles. In fact, an-Nawawī said they differed even in the principle of their Shaykh. Muḥammad Ibn al-Hasan continued to attribute himself to the madhab of Abū Hanīfah as a form of showing his gratitude and dutifulness and respect to his Shaykh Abū Hanīfah, because he was raised in 'ilm by him.

When you reach the point of Ijtihād, to the point where he was placed by some at the level of being like at the level of some of the four Imāms, now he's differing with his

Shaykh in Usūl, the principles of some of the madhab as some said, but these are men of character and ‘ilm. They know to respect those who raised them. Now when Muhammad Ibn al-Hasan is a full Mujtahid and he accepted and continued to accept himself as a Hanafī but he differed with the Shaykh on issues, not on some issues, he actually differed with Abū Hanīfah on two thirds of the entire madhab. Al-Ghazālī said that Muhammad Ibn al-Hasan and Abū Yūsuf, they differed with their Imām Abū Hanīfah in two thirds of the madhab.

His opinions, the opinions of Abū Yūsuf and those who differed with their Shaykh are now attributed to the madhab itself, so that’s how you have multiple opinions within the madhab.

Now that’s at the very first stage, Abū Hanīfah’s first level of students, that’s at the first stage. So imagine hundreds of years after that and that’s exactly why we say we go by the dalīl. When we use to argue back in the day with some of the blind-followers of the madāhib, I will tell them, if proof wasn’t what we go by, what fraction within the madhab are you, what fraction within the madhab do you follow?

In Mālikīyyah as you seen have some multiple opinions on a single issue as well. Then how and what books do go to to pull the official opinion out from the madhab, from the various madhāhib, which is the official opinion of that madhab is just as complex.

Hanābilah however, are probably the most complex when it comes to many opinions on one issue. In fact one of my teachers in Madīnah (رحمه الله تعالى) used to humourously say to us, if you’re stuck on the final, you don’t know who said that opinion, just attribute it to Imām Ahmad or the Hanbalī madhab, and your chances of getting it right are very strong. He was you know joking with us.

Ibn Qudāmah (رحمه الله تعالى) mentioned some matters which have three riwayat in his books. Some mention four, riwayat within the madhab, some mention five, some six, some even went onto mention seven opinions in one mas’alah. The most common is probably two, there’s a lot that you will see two within one issue.

Since our book is Hanbalī, based on the Hanbalī madhab. I'll give you a few more reasons as to why there would be multiple opinions pertaining to one issue.

Sometimes, Imām Ahmad (رحمه الله تعالى) wouldn't have a solid hadīth on a issue, you know he loved to go by the hadīth. He would have for example, two or three sayings of the Sahābah, for example. Those two or three may be conflicting, those two opinions may be conflicting of the Sahābah. He would relate those statements and choose one, the one that he chose of course, the one he deems as the correct opinion, but sometimes it wouldn't be clear to him at the point, he has the opinions but it's not clear to him, so he would mention the various statements of the Sahābah and he would leave it at that, and this is one of the things that Ibn al-Qayyim (رحمه الله تعالى) said.

What happened? 'Ulamā' come after that, some take this Sahabī's opinion that he mentioned, and some take this Sahabī's opinion and some take this Sahabī's opinion and then they attribute it to him, now he has multiple opinions on one issue.

Sometimes, he may be forced to give a fatwā based on intellect, because that's what he has before him, because there's no hadīth, there's no proof from the Qur'ān, Sunnah or Ijmā' or Qiyās, so he uses intellect and people take it and spread it out.

Hadīth and knowledge wasn't compiled like it is today, you'll find everything right before your fingers on the internet or in the books behind you or around you. So what does a Mujtahid do? He gives a fatwā based on what he has. Then later on, they take it and go with it. Later on, the Imām finds a hadīth and it's contradictory to what he gave, so he goes by the hadīth. The people who took the first opinion may not know, communication wasn't like today. They don't know he changed his opinion so they adopt the first opinion and convey it and some will take the latter opinion based on the hadīth and convey it. His official opinion is the second of course, but it's not known to everyone so it appears that he would have two opinions on one matter.

Another reason, Imām Ahmad's opinions were taken from his fatwā's, but they were also extracted from his actions and his narrations. 'Ulamā' would extract from his actions and narrations what they believe would be his opinion on certain matters. There's many Mujtahidīn and 'Ulamā' of the madhab, and they have different rules and

they think differently when looking at the same issue. So when they extract that, it causes a difference of opinion within the madhab. Each one thinks differently, each one extracts something differently.

Another point, and this applies to many of the fuqahā', not just madhab Imām Ahmad. The Imām gives a fatwā in accordance to what he was asked or understood, a particular or situation. Then a very similar, but not identical Fiqhī issue arises, where he gives a differing fatwā. The second issue could be so close with a slight detail or understanding that was overlooked and they thought he answered the same issue, causing it to be two different opinions on the same matter, when in reality they overlooked some detail that caused a distinguish between the two.

Ibn Taymiyyah (رحمه الله تعالى) mentioned another issue. He said sometimes they would ask Imām Ahmad (رحمه الله), what's the opinion of Imām ash-Shāfi'ī on this? Because he had knowledge of the various madhāhib, or Ishāq Ibn Rāhawayh or al-Awzā'ī or Abū Hanīfah or Thawrī. Ibn Taymiyyah said the students of Imām Ahmad would ask him the opinions of the various 'Ulamā' that may be conflicting, they're not asking his opinion, the opinions of other 'Ulamā'. He's not giving his own opinion, he's giving them what other Sahābah and 'Ulamā' gave and Ibn Taymiyyah (رحمه الله) said they documented it sometimes as his own opinion and that caused multiple opinions within one masā'il.

Another reason, it's reported that Imām Ahmad didn't like anyone to write anything of the Fiqhī opinions he had. It was related verbally. He only let a select few like al-Maymunī and his son 'Abdullāh and....he was humble like righteous 'Ulamā' are. He reached a point in fame that he didn't like anyone to write. Sometimes he didn't leave his house and he quit going to funerals, in fear of people gathering around him. He used to say, glad tidings for the one who is not known. He told his student once, try not to get famous because Allāh (سبحانه وتعالى) has tested me with that. He didn't let people follow him around as some 'Ulamā' proudly do today. He would stand with that person until he's done talking to him, then he would walk. The point being, is Imām Ahmad is an Imām who is humble, he didn't let people write at times or some people write, or he did not want them to write because it may take from their concentration on the Qur'ān

and the Sunnah, or other reasons. What does that do? That may have caused a difference of opinion on some matters. Not only for Imām Ahmad in particular, but also for other ‘Ulamā’.

When it’s related verbally, there’s bigger room for error and misunderstanding. People have different intellect in taking things and then expressing that issue so that leaves room for various opinions on one mas’alah.

An example that may pertain to this, is wiping over the neck. There’s an opinion within, we said that’s incorrect if you remember in our classes, we said that’s incorrect. There’s an opinion within the madhab of the Hanābilah to do so. Al-Khallāl who I gave a brief bio on, he said that was an error on behalf of the person who relayed that.

Another reason is that some madhāhib have their own definitions and guidelines and principles on certain matters. That’s why they’re called madhāhib. Some of the ‘Ulamā’ of the madhab, of the Hanābilah like Ibn Hāmid, he said if Imām Ahmad has an old and new opinion, we know it’s old and we know it’s new, we keep the old as an opinion within the madhab. That concept is mentioned within the madhab. Sometimes, the multiple opinions within one issue are because an Imām or in particular like Imām Ahmad used terminology in giving fatwā that wasn’t 100% clear to everyone. Some of his terminology could encompass makrūh and harām, disliking and harām. He used terminology sometimes that would encompass makrūh and harām. Ahkshā anyakūna kadha, aw lā yaqūl, aw lā yanbaghi, aw lā yas’la or similar statements to that. It could be makrūh, it could be harām.

Other terms he used within his terminology could encompass meaning a wājib and a Sunnah. So that would split the ‘Ulamā’, some say Sunnah, some say it’s wājib. Yu’jibuni, as-takhsinu’hu, it could mean a wājib, it could mean a Sunnah. So because those terms could mean more than one meaning, there may be opinions, conflicted opinions on one issue depending on how that particular Hanbalī Mujtahid took it.

The term makrūh was not disliked in Fiqhī back then, in the Qur’ān, it means harām, not makrūh.

كُلُّ ذَلِكَ كَانَ سَيِّئُهُ عِنْدَ رَبِّكَ مَكْرُوهًا

Makrūh in that verse [17:38] is harām, disliked. The latter scholars came with the term makrūh to be disliked, a level less than harām. For us, to help us so we can understand things more easier. Ibn al-Qayyim (رحمه الله) went in length to show many narrations where Imām Ahmad (رحمه الله تعالى) used makrūh or disliked to mean harām. Muhammad Ibn al-Hasan said every makrūh is harām. What happened is sometimes when it was harām, but not clear, decisive, he believed it's harām but not clear, decisive proof on something to show it. He considered it harām based on that proof, but he didn't call it harām, he called it makrūh. That's the wara' of our 'Ulamā', or sometimes it's for other reasons, he believed it to be harām, but on the other side, a Sahābī had said it was halāl, so he would believe it's harām but referred to it as makrūh. It is harām, in his terminology it's harām, but he referred to it as makrūh because a Sahābī had opposed that. That ended up doing what? Causing multiple opinions on one matter.

Another reason for multiple opinions, Ibn as-Subkhī in Sharh Jam' al-Jawamī' said from the strange guidelines of the madhab of the Hanbalī is that they attribute the opinions of their big Mujtahidīn to their Imām. They considered that opinion of a legitimate Mujtahid of the madhab, in the top ranking Mujtahidīn of that madhab, to be like that of Imām Ahmad, they attributed to their Imām. Like al-Khallāl we mentioned, Abū Ya'lā, Abul-Wafā' Ibn 'Aqīl, Ibn Taymiyyah, when they make an Ijtihād and those on their class and level, they attribute their opinion to the Imām himself. What does that do? They're not one person, they're many, that causes multiple opinions on one issue in the madhab.

Like we said, madhāhib has its guidelines, outlines and principles on how they do things.

There's also what's called a wajh, when referring to the opinions of some of the madhāhib, this could be in various madhāhib. For example, if a Mujtahidīn deduce from the principles of the madhab, some ruling, to a specific certain matter, that's a wajh, they refer it to as a wajh. They give Imām Ahmad an opinion he never gave on a

specific issue by deducing it from the principle of the madhab, that Imām Ahmad used to go by, and they call it a wajh.

There's also a takhrīj, very similar to that, and that causes multiple opinions on the madhab because not everybody thinks alike. At-Takhrīj is where there's two similar matters where the Mujtahidīn compare the similar matters and come with the ruling. There's one issue similar to the other. The second issue there's no ruling on it, the first one does, so they compare the second to the first because it's very similar and come up with a conclusion and ruling.

Now there's multiple Mujtahidīn doing all this work and not all of them have the same intellect, nor do they view or think of things alike, that is what may cause disputes within the madhab and give the madhab or the Imām multiple opinions on one issue.